

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

MOBILEMEDIA CORPORATION, *et al.*)

WT DOCKET NO. 97-115

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Applicant for Authorizations and Licensee of)
Certain Stations in Various Services)

COMMENTS OF MOBILEMEDIA CORPORATION
ON PETITION OF JOHN M. KEALEY FOR RECONSIDERATION
AND MODIFICATION OR CLARIFICATION OF THE
COMMISSION ORDER OF AUGUST 8, 1997

MobileMedia Corporation and its licensee subsidiaries, debtors-in-possession ("MobileMedia"), by its attorneys, hereby submits its comments on John M. Kealey's "Petition for Reconsideration and Modification or Clarification of the Commission Order of August 8, 1997."¹ In his Petition, Mr. Kealey maintains that he should not remain on a list of four suspected wrongdoers pursuant to the Order. Mr. Kealey requests that the Commission either (1) modify the Order by removing him from the list of potential wrongdoers, or (2) clarify the Order by defining a procedure by which he may demonstrate his qualifications to hold an FCC license and thus be removed from the list.

MobileMedia does not oppose Mr. Kealey's request that the Commission establish a process by which Mr. Kealey can have an opportunity to remove himself from the list so long as that process does not affect the stay of this proceeding or MobileMedia's *Second Thursday* applications. However MobileMedia respectfully requests that any process provided for Mr.

¹ *MobileMedia Corp., et al.*, Order, FCC 97-284 (rel. Aug. 8, 1997) [hereinafter "Order"].

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Kealey, who is not an officer, director or employee of MobileMedia, be narrowly focused on Mr. Kealey's qualifications.

Although MobileMedia does not object to the establishment of such a narrow inquiry, MobileMedia believes that Mr. Kealey's petition has mischaracterized the Order. The Order was based on the Commission's review of the factual record, which was developed over many months by the Company and the Wireless Telecommunications Bureau. The Commission correctly determined that, with the exception of four named persons, there was no factual basis for believing that any of MobileMedia's present or former officers, directors or senior managers were involved in the deceptive acts or approved the deception.² Moreover, except for the four suspected wrongdoers, there was no evidence that any of the present or former officers, directors or senior managers engaged in any activities that "raise a substantial and material question concerning their qualifications to be a licensee."³

In contrast, the record before the Commission contains ample grounds to support the Commission's determination that Gene P. Belardi, Kenneth R. McVay, Gregory M. Rorke and Mr. Kealey are "suspected" wrongdoers. The factual record contains evidence that these four individuals either (1) directly engaged in the false filings, or (2) had direct management operating responsibility over those engaged in these activities *and* approved of the activities.⁴ Indeed, in his Petition, Mr. Kealey acknowledges that the record contains evidence that Mr.

² *Order* at 4.

³ *Id.*

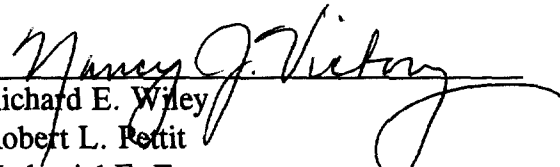
⁴ *Id.* at ¶ 8.

McVay and Mr. Belardi reported to Mr. Kealey⁵ *and* that he knew and approved of the false filings.⁶

Because the record supports the Commission's determination, MobileMedia does not oppose Mr. Kealey's request for a procedure by which he will have the opportunity to establish that he is qualified to be a licensee. However, MobileMedia respectfully requests that such a procedure be narrowly focused so as not to interfere with the progress that MobileMedia has been making in efforts to effect a successful transfer of control under the Commission's stay order⁷ and its August 8 Order.

Respectfully submitted,

MOBILEMEDIA CORPORATION

By: 
 Richard E. Wiley
 Robert L. Pettit
 Nathaniel F. Emmons
 Richard H. Gordin
 Nancy J. Victory
 of
 WILEY, REIN & FIELDING
 1776 K Street, N.W.
 Washington, D.C. 20006
 (202) 429-7000

September 18, 1997

⁵ Petition at 2, n.1.

⁶ *Id.* at 2-3 and n.2.

⁷ *MobileMedia Corp. et al.*, FCC 97-197 (rel. June 6, 1997).

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of September, 1997, I caused copies of the foregoing "Comments of MobileMedia Corporation on Petition of John M. Kealey for Reconsideration and Modification or Clarification of the Commission Order of August 8, 1997" to be delivered via first-class mail to the following:

The Honorable Reed E. Hundt*
Federal Communications Commission
1919 M Street, N.W.
Room 814
Washington, D.C. 20554

The Honorable Rachelle B. Chong*
Federal Communications Commission
1919 M Street, N.W.
Room 844
Washington, D.C. 20554

The Honorable Susan Ness*
Federal Communications Commission
1919 M Street, N.W.
Room 832
Washington, D.C. 20554

The Honorable James H. Quello*
Federal Communications Commission
1919 M Street, N.W.
Room 802
Washington, D.C. 20554

The Honorable Joseph Chachkin*
Federal Communications Commission
2000 L Street, N.W.
Second Floor
Washington, D.C. 20554

William E. Kennard, Esq.*
General Counsel
Federal Communications Commission
1919 M Street, N.W.
Room 614
Washington, D.C. 20554

Daniel B. Phythyon*
Acting Chief
Wireless Telecommunications Bureau
2025 M Street, N.W., Room 5002
Washington, D.C. 20554

Rosalind K. Allen*
Deputy Chief
Wireless Telecommunications Bureau
2025 M Street, N.W., Room 5002
Washington, D.C. 20554

* Hand Delivery

Gary P. Schonman*
D. Anthony Mastando
Enforcement Division
Wireless Telecommunications Bureau
2025 M Street, N.W., Room 8308
Washington, D.C. 20554

John Harwood
William Richardson
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037-1420
(Attorneys for the Chase Manhattan Bank, as
agent for secured lenders of MobileMedia
Corporation)

Dennis P. Corbett
Leventhal, Senter & Lerman
2000 K Street, N.W.
Suite 600
Washington, D.C. 20006-1809
(Attorney for Hellman & Friedman Capital
Partners, II, L.P.)

David S. Kurtz
Jones, Day, Reavis & Pogue
77 West Wacker
Chicago, IL 60601-1692
(Attorneys for the Unsecured Creditors)

David E. Sellinger
Ralph L. Casale
Tucker, Flyer & Lewis
1615 L Street, N.W., Suite 400
Washington, D.C. 20036
(Attorneys for Santo J. Pittsman)

John I. Riffer*
Office of the General Counsel
Federal Communications Commission
1919 M Street, N.W.
Room 610
Washington, D.C. 20554

Michael D. Hayes
Dow, Lohnes & Albertson
1200 New Hampshire Avenue, N.W.
Washington, D.C. 20036-6802
(Attorney for David A. Bayer)

Phillip L. Spector
Patrick S. Campbell
Paul, Weiss, Rifkind, Wharton & Garrison
1615 L Street, N.W., Suite 1300
Washington, D.C. 20036
(Attorneys for the Unsecured Creditors)

Louis Gurman
Kimberly D. Wheeler
Gurman, Blask & Freedman, Chartered
1400 16th Street, N.W., Suite 500
Washington, D.C. 20036
(Attorneys for Western Wireless Corporation)

W. Neil Eggleston
Evan J. Werbel
Howrey & Simon
1299 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(Attorneys for Debra P. Hilson and Mark L.
Witsaman)

Carl W. Northrop
Paul, Hastings, Janofsky & Walker, LLP
1299 Pennsylvania Avenue, N.W.
10th Floor
Washington, D.C. 20004-2400
(Attorneys for Triad Cellular Corporation)

James C. Mingee
Mingee & Associates
4084 Coker Road
Jackson, MS 39213
(Attorney for Glynn Ingram)

Arthur H. Harding
Richard Rubin
Fleischman and Walsh, L.L.P.
1400 Sixteenth Street, N.W.
Suite 600
Washington, D.C. 20036
(Attorneys for Falcon Holding Group, L.P.)

David Spears
James M. Aquilina
Richards Spears Kibbe & Orbe
One Chase Manhattan Plaza, 57th Floor
New York, NY 10005-1413
(Attorneys for John M. Kealey)

David G. Richards
BellSouth Corporation
Legal Department, Suite 900
1133 21st Street, N.W.
Washington, D.C. 20036
(Attorney for BellSouth Corporation)

Alan Y. Naftalin
Arthur B. Goodkind
Koteen & Naftalin, L.L.P.
1150 Connecticut Avenue, N.W.
Washington, D.C. 20036
(Attorneys for MobileMedia Corporation)

Ky E. Kirby
Swidler & Berlin Chtd.
3000 K Street, N.W., Suite 300
Washington, D.C. 20007-5116
(Attorney for John M. Kealey)


Corliss Holly-Harkins